

Testimony of Tom Constand, President and CEO  
The Brain Injury Association of Michigan

Distinguished members of this House Insurance Committee...good morning/afternoon, and thank you for this opportunity to express the perspective and concerns of the Brain Injury Association of Michigan on behalf of the community we represent – the estimated 200,000 people in Michigan currently living with the effects of a brain injury and their families – and, in particular, the specific sub-segment of that community caught squarely in the crosshairs of this issue...the over 16,000 auto accident survivors currently receiving reimbursements via the no-fault system and now benefitting from the very highest quality of care possible, as well as the annual incoming classes of auto accident survivors whose future quality of care – and quality of life – hangs in the balance.

Let me emphasize at the outset that as committed as we are to retaining the benefits of auto no-fault coverage, we are *not* defenders of the current system's weaknesses, limitations, and abuses. Reform is clearly needed, and elements that simply don't work must be weeded out. But reducing premium cost by just reducing coverage will devastate the lives of these current and future auto accident survivors while leaving many of the system's flaws intact.

Many have said we should model our system after states with less costly auto insurance and no apparent issues – states that were characterized during last week's press conference as "doing just fine." Well, I would refer you to a

December 2012 article in Bloomberg Businessweek describing the lack of nationwide access to the type of brain injury care that critically-wounded Congresswoman Gabby Giffords received; characterizing the state of national care for catastrophically injured TBI patients as “inhumane;” and describing in detail the deplorable living conditions of these forgotten individuals, literally living in squalor while being warehoused in nursing homes that are ill-equipped to care for them. Warehousing these individuals is not “doing just fine.” it’s unacceptable – and fortunately it doesn’t happen here in Michigan for auto accident survivors under no-fault.

Others like to compare the features of M-Insurance to the intended attributes of the Affordable Care Act, specifically it’s tenets of “affordable care for everyone” and “choice.” Unfortunately, this is an apples and oranges comparison. While the ACA for many of us represents a significant step forward in securing access to health care for all Americans, the law falls short in codifying the scope, duration, and intensity of rehabilitative treatment to be provided under its essential health benefit provisions. So, despite the prohibition against annual and lifetime spending caps it provides, health plans across America are permitted to limit the number of therapeutic visits a policy holder may access in any given year. In terms of “choice,” well, it’s fair to say that none of Michigan’s 16,000+ auto accident survivors currently in the system ever imagined they’d be in a serious vehicle accident. And it’s likely that a vast majority of them – as many of us whose finances require watching every dollar – would have chosen M-Insurance’s lowest level of coverage available - \$250,000 - if that proposal had been in place instead of our current system. It’s

the option that would seem at face value to represent the “right” choice for their family. How “wrong” they would have been.

In reality, M-Insurance stipulates that \$225,000 of that coverage would have paid for immediate emergency medical care for these survivors, leaving a grand total of \$25,000 to cover their *lifelong* needs for ongoing medical treatment; and it’s not acupuncture or aroma therapy that’s at issue, here. It’s physical therapy so a person with a brain or spinal cord injury can regain enough strength to stand with a walker, or cognitive and speech therapy so a brain-injured survivor can hopefully regain some semblance of executive functioning or communicate with their family, or medications so a survivor’s spasticity can be alleviated. These are the types of essential rehabilitation services our current no-fault system covers. That \$25,000 of post-emergency care these individuals would have received under the M-Insurance plan would have covered less than one month of treatment and support, resulting in these critically ill individuals essentially being institutionalized in a Medicaid or publicly funded nursing facility to live out their lives in a vegetative state.

New Jersey, the state offering the second “best” reimbursement coverage in the nation, has nearly as many brain injury survivors – 175,000 – as does Michigan, and it’s auto premium costs around \$1000 lower per policy than ours. For that, you get up to \$250,000 in the case of a catastrophic injury, which will last perhaps six months, optimistically. In addition, their TBI Fund, essentially New Jersey’s bridge loan to help pay for services received while your case is mired in their tort system, provides an additional lifetime cap of \$100,000. As a majority

of traumatic brain injuries affect people under age 35, imagine the catastrophically injured among them living out their remaining 20, 30, 40, or more years on a total of \$350,000. The term “warehousing” is not inappropriate.

Let’s look at Colorado, another state we’ve been benchmarked against, where in 2003, their state legislature switched from a no-fault to a Tort driven system in an effort to lower the cost of auto insurance. In 2008, they looked at the effects of that switch and discovered a 205% increase in Medicaid costs shifted onto the shoulders of their taxpayers. Moreover, each person in Colorado lost on average \$140,000 in annual benefits, as compared to an annual savings of just under \$200 on their insurance bills.

Now, let’s look back at Michigan, where we have what is nationally regarded as the best system of rehabilitative care in the country, with a nation-leading 141 CARF-accredited facilities and programs, more than 38 other states combined (by the way - Ohio has 10, Indiana has 6, and Wisconsin has 2) that has been made accessible and affordable for catastrophically injured auto accident victims – and if we work together, perhaps we can make it accessible and affordable for all 200,000 persons with a brain injury in our state. That, in point of fact, is our Association’s vision.

What we also have is a growing problem with exorbitant auto insurance costs; obscene in the case of Detroit that we can no longer ignore. But let us not throw

the baby out with the bath water by implementing a zero-sum game-type solution when we don't have to.

Instead, we urge bringing *all* parties to the table – hospitals and medical providers, the rehabilitation community, legal providers, and most especially the insurers themselves – to identify and agree upon the root causes of excessive cost; the culprits of fraudulent practices on all sides; and the fair and equitable course corrections that will result in a sustainable solution.

Only by taking that step can we hope to realistically cut premium costs for all Michiganders while ensuring that the most seriously injured among us receives the lifelong caliber of care we'd want to ensure were that injured person our spouse, parent, son, or daughter.

Thank you.